

An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of the error in the specification but also the appropriate correction.

As originally filed, the specification, at the bottom of page 4, identified an equation that was equal to " β ." Immediately following that equation, the specification identified that where the variable "b" was used in the previous equation, it equaled " GL^3/EI ." In fact, the variable "b" was not used in the previous equation; " β " was. This typographical error resulted from an inadvertent font change from the Greek character " β ," to the corresponding Latin character "b." The Examiner has recognized this error and one of ordinary skill in the art would certainly recognize this error as well. The only question that remains is whether one of ordinary skill in the art would recognize the appropriate correction. They would for two reasons.

First, page 13 of the specification as originally filed explains that:

$$\begin{array}{ll} \beta = \gamma L^3 & \text{(second line from bottom); and} \\ \gamma = G/EI & \text{(line immediately below Equation 11d).} \end{array}$$

By the simplest of algebraic substitutions, therefore, $\beta = GL^3/EI$. This is the correction made at the top of page 5, and one of ordinary skill in the art would certainly be able to perform simple algebraic substitution.

Second, in an age of word processing software, it is a common problem for one font to be substituted by another font when exchanging electronic documents. And, it is neither the first nor the last time that this problem will arise. Since there was a "ß" but no "b" to define, one of ordinary common sense (and certainly one of ordinary skill in the art) would recognize this correction. Accordingly, it is respectfully submitted that this correction be entered.

Correction at Bottom of Page 4

In view of the above correction, it is further and respectfully submitted that one of ordinary skill in the art would appreciate that an error had been made with respect to inclusion of Latin rather than Greek characters. The Examiner has noted the error, and one of ordinary skill in the art would as well. Again, the remaining inquiry under MPEP, §2163.07(II), is whether one of ordinary skill in the art would recognize the appropriate correction. It is respectfully submitted that such a person would indeed recognize the correction on two grounds.

First, as detailed in the specification, Equation 15, at page 18, is derived from the equation at the bottom of page 4. Equation 15 includes the correct Greek characters "ν," "π" and "ξ" rather than the Latin characters "n," "p" and "x." Since Equation 15 is derived directly from the equation at the bottom

of page 4, a person of skill in the art logically would look to it to determine the appropriate correction. In other words, if one of ordinary skill in the art recognized the problem, as the Examiner has, then that same person would see the correction merely by following the derivation of Equation 15.

Second, the MPEP, §2163.07(b), provides that "[r]eplacing ... material incorporated by reference with the actual text is not new matter." Page 3 of the specification as originally filed expressly incorporated by reference U.S. Patent No. 6,145,374 and U.S. Patent Application No. 09/545,570 (now U.S. Patent No. 6,452,170). These likewise use the correct Greek rather than Latin characters.

Accordingly, it is respectfully submitted that the amendments to the specification at the bottom of page 4 should be entered.

Correction at Page 14, and to Claims

For the same reasons set forth above, it is respectfully submitted that the subject corrections to page 14 and the amendments to the claims should be entered.

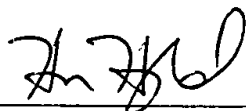
Conclusion

The Examiner's further consideration and favorable action are respectfully requested. Since this response is being

submitted within two months of a final office action, should the Examiner not issue a notice of allowance, applicant respectfully requests an advisory action.

Respectfully submitted,

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